

# SPEECH

OF

## MR. BADGER, OF NORTH CAROLINA,

ON THE

### SLAVERY QUESTION.

IN SENATE, MARCH 18 AND 19, 1850.

The Senate having under consideration the resolutions submitted by Mr. CLAY—

Mr. BADGER said: Mr. President, it is not surprising, considering the subject-matter of the resolutions submitted by the honorable Senator from Kentucky, (Mr. CLAY,) that there should have been a warm, and even an excited debate, produced by them in this house. Nor is it surprising, considering the variety of topics embraced in those resolutions, that there should have been a great diversity of sentiment among the members of this body. The delicate nature of the subject out of which these resolutions have grown—to which, directly or indirectly, they all relate—furnishes abundant excuse, if not justification, for the large amount of excited feeling, and warmth, and animation of discussion, here and elsewhere. I do not rise, Mr. President, with a view of saying any thing which shall tend to aggravate excitement, or at all to lessen the prospects of an amicable accommodation of the various matters in dispute, pending between the different portions of this country. On the contrary, while I shall express, with plainness and sincerity, the views which I entertain, I shall endeavor to avoid saying any thing which can give just offence. In the remarks which I shall submit to the Senate, I shall endeavor to cultivate in myself, and, so far as depends upon me, in others, that spirit of mutual concession, compromise, and kind feeling, in which the Union of the States originated, and by cultivating which alone can it be preserved.

There can be no question that the subject under the consideration of the Senate is vastly important. It is, in my judgment, as important as the value of the Union; and for the estimate of that value, I myself possess no adequate powers of computation. For us, as a people, its value is, indeed, inestimable. When, therefore, questions are moved here which do, either directly or indirectly, involve the continuance of this Union, and the maintenance of the form of government under which we live, I must consider them of such transcendent importance as to be worthy of every exercise of the understanding of every member of this body, and as demanding from us all the exercise of moderation, justice, care, and conciliation, in order to produce good and avoid evil.

In the first place, I concur entirely in what has been so often said upon this floor, that there can be no peaceable separation of this Union. From the very nature of the case, from the character of our institutions, from the character of our country, from the nature of Government itself, it is, in my judgment, impossible that there can be a peaceable separation of this Union. But if there could be, I agree entirely with the honorable Senator from Kentucky, that the state of peace in which we should separate must be speedily ended, must terminate in intestine conflicts, in wars, which, from the nature of the case, could know no amicable termination, no permanent peace; but, until the superiority of one or of the other side in the conflict should be completely established, would admit of nothing but hollow truces, in which each might breathe from past exertions, and make preparations for future conflicts.

Sir, the idea of a separation of these States into distinct confederacies was thought of, and considered, and spoken of, before the adoption of this Constitution. At the time that the question was before the American people, whether the constitution proposed by the convention should be adopted, it was then spoken of. Its probable, yea, certain, consequences, were referred to by the writers of that admirable series of papers denominated the "Federalist;" and I beg the indulgence of the Senate while I read a very brief extract, conveying the views of those eminent men:

"If these States should either be wholly disunited, or only united in partial confederacies, a man must be far gone in Utopian speculation who can seriously doubt that the subdivisions into which they might be thrown would have frequent and violent contests with each other. To presume a want of motives for such contests, as an argument against their existence, would be to forget that men are ambitious, vindictive, and rapacious. To look for a continuation of harmony between a number of independent, unconnected sovereignties, situated in the same neighborhood, would be to disregard the uniform course of human events, and to set at defiance the accumulated experience of ages."

If this was a just view of the probable, the certain results of a separation of these States at that time, and under the then circumstances, I pray you, sir, upon what, at the present day, can we found a better hope? Then the States were fresh from the conflict of the revolutionary war. Then not only had they a lively remembrance of the contest in which they had fought, and in which they had gathered victory and honor together, but the leading men of that time were those choice spirits who had carried them through that recent conflict; who had established the independence of the country; and who exercised an influence in public affairs proportioned to their patriotism, their valor, and their wisdom. Then they might have separated without the same causes of hostility and alienation which must exist in any separation of these States at the present day. If we separate now, we do it with feelings of

mutual distrust and bitterness. We divide, not by common consent, as partners who can no longer carry on their joint business with mutual profit; each to pursue for his own separate advantage that course of business in which he thinks he can best succeed; but we part with the feelings of those who consider themselves mutually wronged. A sense of injustice and oppression rankles in the hearts of one portion of the new confederacies, and a sense, in the other, of defiance and indignity.

Under such circumstances, "what can ensue," to borrow the language of the great English moralist, "but a continual exacerbation of hatred—an unextinguishable feud—an incessant reciprocal action of mischief—a mutual vigilance to entrap and eagerness to destroy?"

The question has been asked, what can the States do, supposing them to be divided—separated into distinct subdivisions, or independent sovereignties? Allow me to answer that question in the words of one of the most eminent men whom my State has ever produced: a man of clear and comprehensive intellect, of a sound heart, and enlarged and ardent patriotism; who shed a glory around his native State, and whose name is held in just veneration by every one who acknowledges himself a North Carolinian. At another period of our history the same question was asked. In the years 1831 and 1832, it had become an inquiry, a subject of disquisition in my own State, and the late Judge Gaston, in an address delivered in 1832 before the literary societies of the University, thus treats of the subject:

"Threats of resistance, secession, separation, have become common as household words, in the wicked and silly violence of public declaimers. The public ear is familiarized, and the public mind will soon be accustomed to the delectable suggestion of disunion. Calculations and conjectures—what may the East do without the South, and what may the South do without the East—sneers, menaces, reproaches, and recriminations, all tend to the same fatal end. What can the East do without the South? What can the South do without the East? They may do much; they may exhibit to the curiosity of political anatomists, and the pity and wonder of the world, the 'disjecta membra'—the sundered, bleeding limbs of a once gigantic body, instinct with life, and strength, and vigor. They can furnish to the philosophic historian another melancholy and striking instance of the political axiom, that all republican confederacies have an inherent and unavailing tendency to dissolution. They will present fields and occasions for border wars, for leagues and counter-leagues, for the intrigues of party statesmen, the struggles of military chiefs, for confiscations, insurrections, and deeds of darkest hue. They will gladden the hearts of those who have proclaimed that men are not fit to govern themselves, and shed a disastrous eclipse on the hopes of rational freedom throughout the world. Solon, in his code, proposed no punishment for parricide, treating it as an impossible crime. Such, with us, ought to be the crime of political parricide—the dismemberment of our fatherland."

To me, sir, these sentiments convey a just representation of what will be the future and unavoidable results of a separation of the people of this great country into distinct and independent confederacies. And when I look at the prospect before us, it is one so dark, filled with such horrid forms of dread and evil, that I willingly close my eyes upon it, and desire to believe that it is impossible it should ever be realized.

Now, Mr. President, if the evils resulting from a dissolution of the Union be of the kind and magnitude which I have stated, is there any danger—have we any reason, in the present condition of the country, to apprehend—that a dissolution may follow the action of the Congress of the United States upon the great questions before us? Is there a probability that such a result may follow any course which Congress may think proper to take—any decision to which they may come upon these vexed and harassing questions? I am not, and never have been, and trust I never shall be, an alarmist. I look to the Union of these States as the palladium, not only of the general safety of the whole, but of the individual liberty of the several parts that compose it. I will not undertake to state, sir, what amount of hazard we might encounter of some domestic convulsion; but that there is more or less reason for apprehension—that there is danger, greater or less—no man doubts who attends to what he hears in this chamber, and what he sees throughout the country. The most eminent men belonging to this body realize that we are in a situation which requires great skill and dexterity in the management of public measures; that there is danger that this Union, though it capable of a peaceable separation—or, if peaceably separated, incapable of maintaining between the portions which composed it, for any length of time, harmonious relations—may yet experience convulsions and violent separations. Whether the danger be greater or less—whether it be exaggerated on the one hand, or looked upon as too small upon the other—if there be any danger, however remote, any reason, however small, to fear such results, to a man with a patriotic heart it furnishes just the same ground of caution—just the same motive for forbearance—just the same ground for the exercise of care and diligence for our preservation, as if the danger were immediate or the cause of fear great. We all realize this in the ordinary transactions of life. If a man has any reason to suppose, however remote the danger, that the house in which he is conceals a powder magazine beneath it, he does not wait to have demonstration of the fact before he takes measures for his security. In all human affairs we are obliged to act upon probable evidence, and to provide for probable contingencies, and to respect even the lowest degree of probability, in avoiding danger and securing safety. I care not whether there be more or less reason to think that a convulsion may be produced among the people of the different sections of the Union by the manner in which these questions shall be decided by Congress; if there be any danger, any ground of fear, as men of sense, as men of patriotism, as lovers of our country, we are bound to the most anxious, earnest, persevering efforts to secure the country. Entertaining these views upon the subject, and having stated what I believe to be the duty of us all, I profess now to act, and to be always ready to act, upon the principle which I have stated as that which should govern our conduct.

In what, Mr. President, have these difficulties their origin? They spring from one single source. They may multiply themselves; they may assume various directions; they may govern and direct the conduct of individuals in various modes; but the whole difficulty lies in slavery as its original and sole source. It is the existence of that institution in certain States of the Union, and the existence of that institution alone, which has brought upon us the necessity of considering whether this Union is safe. Entertaining very clear and decided views upon the subject of that institution, and sentiments

having been expressed with great confidence by many gentlemen, particularly by the Senator from New York, who sits on this side of the chamber, (Mr. Seward,) as to its nature and character, considered in a religious point of view—it having been assumed as a matter of course that that institution itself is utterly opposed to the spirit and law of Christianity, and that it must be taken to be in itself morally evil, evil altogether, and to be tolerated only where we have no power to put it down; I beg leave, though not exactly germane to the political discussion, to submit to the Senate a brief inquiry into the correctness of this view. I maintain, and shall endeavor to establish, that whether the institution of slavery be considered as an evil or not, it is not a sin. It is not in itself a violation of the Divine law.

It was said by the honorable Senator from Massachusetts, in the noble and able speech which he delivered the other day, that that institution had existed from the earliest times; that the first writers of history found it existing; that, in the theocratic government of the Jews, no disapprobation of it was expressed; and that, under the Gospel dispensation, no injunction against it is to be found. That is the truth, sir, but it is not all the truth. It is clear that this institution, which we find existing in the world before and at the commencement of the Jewish theocracy, not only was not disapproved of, but was expressly recognised, approved, and its continuance sanctioned by the Divine Lawgiver of the Jews.

Why, Mr. President, if we disburse our minds of the influence of previous opinions, and undertake to inquire whether the divine law of charity condemns the institution of slavery; and if in this inquiry we subordinate our own judgments to the teachings of the Divine Lawgiver himself, there can be little doubt as to the result to which we must arrive: and it will be that which I have stated. But we may adopt a different mode of conducting the inquiry—may allow some inward impulse or feeling to give interpretation to the great law of charity, and set up our own speculations to regulate our judgment of its force and application. We may thence be led to conclude that the institution of slavery is utterly unlawful; but in so doing we present a melancholy instance of the human interpreter setting himself in direct opposition to the practical commentary which the Divine Lawmaker has given upon his own law.

Now, sir, I find in the 25th chapter of Leviticus this passage:

"And if thy brother that dwelleth by thee be waxen poor, and be sold unto thee, thou shalt not compel him to serve as a bond servant; but as a hired servant, and a sojourner, he shall be with thee, and shall serve thee unto the year of jubilee; and then shall he depart from thee, both he and his children with him, and shall return unto his own family, and unto the possession of his fathers shall he return. For they are my servants, which I brought forth out of the land of Egypt; they shall not be sold as bondmen. Thou shalt not rule over him with rigor but shalt fear thy God. Both thy bondmen and thy bondmaids, which thou shalt have, shall be of the heathen that are round about you; of them shall ye buy bondmen and bondmaids. Moreover, of the children of the strangers that do sojourn among you, of them shall ye buy, and of their families that are with you which they begat in your land; and they shall be your possession. And ye shall take them as an inheritance for your children after you, to inherit them for a possession; they shall be yours forever; but over your brethren, the children of Israel, ye shall not rule one over another with rigor."

This is one among the many direct, positive, authoritative approvals by God himself of the institution of slavery, existing at the time of the Jewish theocracy. It is not a mere toleration, a mere forbearance to prohibit, but an express permission to the Israelites, whom He condescended to govern in the stead of a human ruler, to purchase of the surrounding nations and of strangers among them slaves, and to hold them as an inheritance forever.

Slavery, Mr. President, was found, as mentioned by the honorable Senator from Massachusetts, an existing institution at the time of the Gospel dispensation, and was spread throughout the earth. What treatment did it receive from the founders of that Gospel dispensation? It was approved—first negatively, and then positively. First negatively, because, in the whole New Testament there is not to be found one single word, either spoken by our Saviour or by any of the Evangelists or Apostles, in which that institution is either directly or indirectly condemned. And also affirmatively. To show this I desire to call the attention of the Senate to two or three passages from the epistles of St. Paul, and to bring them forward, not with a commentary of my own, but with a brief commentary from one of the best men that ever lived, as well as one of the most learned divines, who spent his life between the years 1721 and 1799 in the kingdom of Scotland, who never set his foot upon soil where there was a slave, and never saw a slave. He gives his opinions in a most able work, entitled "A New Translation, Commentary, and Notes upon the Epistles"—not any hasty production, but the result of thirty years of his life expended upon this subject, which it is said was five times written over by his own hand before its publication. I allude to the celebrated Dr. McKnight, of the established Presbyterian church of Scotland.

In his introduction to the sixth chapter of the first epistle to Timothy, he thus expresses himself:

"Because the law of Moses (Exod. 21, 22) allowed no Israelite to be made a slave for life without his own consent, the Judaizing teachers, to allure slaves to their party, taught that, under the Gospel, likewise, involuntary slavery is unlawful. This doctrine the apostle condemned here, as in his other epistles, (1 Cor. 7, 20, 21, 22; Col. 3, 22,) by enjoining Christian slaves to honor and obey their masters, whether they were believers or unbelievers, (verses 1, 2,) and by assuring Timothy that if any person taught otherwise he opposed the wholesome precepts of Jesus Christ and the doctrine of the Gospel, which is in all points conformable to godliness or sound morality, (verse 3,) and was puffed up with pride, without possessing any true knowledge either of the Jewish or of the Christian revelation, (verse 1.)"

The passage in the epistle referred to by Dr. McKnight is in these words:

"Let us many servants as are under the yoke count their own masters worthy of all honor, that the name of God and his doctrine be not blasphemed. And they that have believing masters, let them not despise them, because they are brethren; but rather do them service, because they are faithful and beloved, partakers of the benefit. These things teach and exhort. If any man teach otherwise, and consent not to wholesome words, even the words of our Lord Jesus Christ, and to the doctrine which is according to godliness, he is proud, knowing nothing, but dotting about questions and strifes of words, whereof cometh envy, strife, railings, evil surmisings, perverse disputings of men of corrupt minds, and destitute of the truth, supposing that gain is godliness; from such withdraw thyself."

On this he has the following note:

"By ordering Timothy to teach slaves to continue with and obey their masters, the apostle hath showed that the Christian religion neither alters men's rank in life nor abolishes any right to which they are entitled by the law of nature, or by the law of the country where they live. Instead of encouraging slaves to disobedience, the Gospel makes them more faithful and conscientious. And by sweetening the temper of masters, and inspiring them with benevolence, it renders the condition of slaves more tolerable than formerly; for, in proportion as masters imbibe the true spirit of the Gospel, they will treat their slaves with humanity, and even give them their freedom, when their services merit such a favor."

I ask the attention of the Senate to a brief passage from the sixth chapter of the Ephesians. It is in these words:

"Servants, be obedient to them that are your masters according to the flesh, with fear and trembling, in singleness of your heart, as unto Christ; not with eye-service, as men-pleasers, but as the servants of Christ, doing the will of God from the heart; with good will doing service, as to the Lord, and not to men: knowing that whatsoever good thing any man doeth, the same shall he receive of the Lord, whether he be bond or free."

The passage is thus paraphrased by Dr. McKnight in his Commentaries:

"As the gospel does not exalt the civil rights of mankind, I say to bond servants, obey your masters, who have the property of your body, with fear and trembling, as liable to be punished by them for disobedience: obey also from the integrity of your own disposition, as obeying Christ."

"Do this not merely when their eye is on you, or they are to examine your work, as those do whose sole care is to please men; but as bondmen of Christ, doing the will of God in this matter from the soul—that is, diligently."

"With cheerfulness do your duty to your earthly masters, as servants to the Lord Christ; for, in serving them faithfully, ye serve him; and therefore do not consider yourselves as servants to men only. And that ye may be supported under the hardships of your lot recollect what your religion teaches you, that whatever good action any man does, for that, though he should receive no reward from men, he shall receive at the judgment a reward from Christ, whether he be a slave or a freeman."

I will trouble the Senate with one more quotation. It is from the third chapter of Colossians:

"Servants, obey in all things your masters according to the flesh; not with eye-service, as men-pleasers, but in singleness of heart, fearing God: and whatsoever ye do, do it heartily, as to the Lord, and not unto men; knowing that of the Lord ye shall receive the reward of the inheritance, for ye serve the Lord Christ. But he that doeth wrong shall receive for the wrong which he hath done, and there is no respect of persons."

Dr. McKnight explains this passage in the following note:

"Though the word *domos* properly signifies a slave, our English translators, in all the places where the duties of slaves are inculcated, have justly translated it servant; because anciently the Greeks and Romans had scarce any servants but slaves, and because the duties of the hired servant, during the time of his service, are the same with those of the slave. So that what the apostle said to the slave was, in effect, said to the hired servant. Upon these principles, in translations of the Scriptures designed for countries where slavery is abolished and servants are freemen, the word *domos* may, with truth, be translated a servant. In this, and the parallel passage (Ephesians, 6, 5) the apostle is very particular in his precepts to slaves and lords; because, in all the countries where slavery was established, many of the slaves were exceedingly addicted to fraud, lying, and stealing; and many of the masters were tyrannical and cruel to their slaves. Perhaps, also, he was thus particular in his precepts to slaves because the Jews held perpetual slavery to be unlawful, and because the Judaizing teachers propagated that doctrine in the church. But from the apostle's precepts it may be inferred that if slaves are justly acquired, they may be lawfully retained, as the Gospel does not make void any of the political rights of mankind."

Now, sir, the institution which existed at the time when Christianity was proclaimed was thus recognised as lawful. It was proper slavery, perpetual slavery, a servitude for life, with the obligation of servitude transmitted to descendants; and permit me to say it was a slavery far more hard, far more liable to reproach, far more deserving condemnation, than any thing that has ever existed in this country. It was a slavery in which the master had the power of life and death over his slave. It was a slavery in which bodily hardship was imposed upon the slaves of a kind and in a degree totally unknown in any State of this Republic. The rural slaves often worked in chains, and were usually turned at night into one common receptacle, in which each had his cell, and there detained until they were prepared to resume the labors of the following day. It was a slavery in which the domestic servants were subject to every species of exaction from hard and tyrannical masters, whose hearts had not been softened by the benign influences of Christianity; and of these domestics they who probably had the hardest lot were the tire-women, who waited upon the Roman ladies, and who often received the severest treatment for any want of skill and dexterity in arranging the hair and dresses of their lovely but fastidious mistresses, so as to display their charms to the greatest advantage.

So Christianity found this institution. It took it up as an existing relation of life. It denounced all oppression and cruelty, and inculcated justice, forbearance, and humanity from the master to the slave. It demanded fidelity and obedience from the slave to the master. It recognised, expressly, that the master and the slave might, without reproach, be both members of the same church; that believing masters might have believing slaves; and it enforced their relative duties to each other upon Gospel principles. Why was it left to exist in the church, if wrong in itself? There was no difficulty at all about emancipation. The restraints upon emancipation were few, and applied only to special cases. The principal were the prohibition to emancipate to the injury of creditors, the restriction of emancipation by testament, beyond a certain number or proportion, and the provision that emancipation by persons under twenty years of age should be sanctioned by certain respectable official persons. Such were the chief restrictions upon emancipation at the epoch of the Christian revelation.

Nothing could be easier than for St. Paul to have said, "Slaves, be obedient to your heathen masters; but I say to you, believing masters, emancipate your slaves: the law of Christ is against that relation; and you are bound, therefore, to set them at liberty." No such word is spoken. From that day down, the church acted upon precisely the same principle, both before and after the empire became Christian; the emperors from time to time (especially the Christian emperors) interposing by laws for the purpose of preventing oppression and injustice to slaves; and the church, by her ex-communications, affording a restraint against barbarous usage on the part of Christian masters.

Now, Mr. President, having an institution among us so ancient, so sanctioned, surely it cannot be

that it is, in itself, utterly unlawful and irreconcilable with the spirit and teachings of our divine religion. I cannot conceive, after considering the writings of the apostles and the continued practice of the church, from its earliest and purest times, which recognise slavery as a lawful institution, and enforce the duties growing out of it upon both master and slave, how we, who now hold slaves, are to be put beyond the charities of our race as oppressors and robbers. No, sir; no, sir. We stand upon higher and better ground. We justify no injustice, cruelty, or hardship. We claim that we have just rights, recognised by the religion we profess, as well as by the laws of the country in which we live; and that, for the possession and just use of them, we should incur no reproach here, and we hope we shall incur none hereafter; though we freely admit that the trust confided to us is a high and an important one; that, for the manner in which we discharge it, we must give an account hereafter, not because we possess or exercise authority—that is right; that is proper; that is not anti-religious—but for having been faithless, if faithless we shall be found, to the great duties which the Gospel inculcates as to the mode in which that authority is to be used, and the just restraints to be laid upon it.

I have not made these remarks because I suppose that they will produce conviction upon the minds of gentlemen who take opposite views, nor do I suppose that such conviction can be produced; but I wish those gentlemen to understand that we do not stand in the attitude of flagrant robbers and oppressors, who have no apparent reason and justification for our conduct. To my mind the lawfulness of this institution, in the Christian point of view, is clear, demonstrable, demonstrated. Gentlemen may say, "We do not agree; we have the idea that that great law of charity which says, 'do unto others as you would that others should do unto you,' forbids you to hold a slave." He who gave that law of charity under the Old Testament, and who explained and enforced it under the New, did not declare such a judgment; and, therefore, what I want to deduce and enforce is, that the utmost that can be said by our Northern friends is, that this is a case not free of difficulty, in which difference of opinion may, without just offence, be entertained; and hence that no unkind feeling, no prejudice, should result, because we take a view of this subject which does not meet their approbation.

Mr. President, in these excited times it is very difficult to get a calm and quiet consideration of any thing connected with this subject. My attention is almost daily arrested by misrepresentations with regard to legal enactments subsisting in the Southern States of this Union, and with regard to the motives which have dictated these enactments. It would seem as if men were so carried away by the impulses growing out of this agitating subject, that they lose all charitable consideration for the motives of others, and are ever prompt to suppose that whatever is done is done for a wrong end, or under a wrong impulse. Now, I deem it proper, though at other times such matters would not be worthy of any consideration, to notice one or two misrepresentations with regard to my own State, of whose laws I happen to know something, as well as of the habits and character of her inhabitants. I do this, because every thing which impresses upon the general mind of our Northern fellow-citizens that we are a heartless, exacting, unjust, merciless race of people, has a most unhappy effect upon their disposition and feelings towards us, and induces expressions from them towards us which react upon our minds; and thus is continually fomenting and increasing those sources of disquiet and alienation, which every patriot must regret, and should desire to remove.

I saw the other day, accidentally, in taking up a newspaper, a note appended to a speech delivered in another place. In this note I found these passages:

"NOTE BY MR. MANN.—On replying to the Law Library, to ascertain which party was right in regard to the above difference of opinion, the second book I opened contained at least three cases where the courts were authorized to sentence a slave to be transported for the commission of an offence for which a white man must be unconditionally hung. (See North Carolina Rev. Stat., vol. 1, chap. 111, §§ 36, 37, 39.) Of course the reason of this difference is the pecuniary value of the slave. Hung, he would be worthless; transported to Cuba, he might bring five hundred dollars."

"But laws which punish 'six or eight,' or 'eight or ten,' or any other number of offences with death, when committed by slaves, while the same offences receive a milder penalty when committed by whites, or laws denying the benefit of clergy (where that relic of barbarism still prevails) to a slave, while it is granted to a white man, are surely among the greatest atrocities recorded in the history of the race."

Now, sir, I would not be willing to suppose the gentleman who penned these paragraphs capable of wilfully misrepresenting an individual, much less the whole people of a State; but so carried away is he by this subject, that he does not perceive that his "of course," in the first passage, manifests a most uncharitable disposition; and he does not perceive that what he says in the second paragraph is in direct conflict and inconsistency with the first. If the legislature of a Southern State permits a slave to be transported for an offence for which a white man is put to death, "Oh," it is said, "here is detestable avarice, sacrificing justice to money." And if the slave is put to death, and not the white man, "Here is an instance of the greatest atrocities that ever disgraced the legislation of mankind." Now, with regard to this "of course," I do not choose that my State shall lie under the imputation of being influenced in affixing punishment by the mere value of the slave as property. The offences referred to in the statute, cited in this note, are conspiracies, rebellions, insurrections. The law of North Carolina, like I suppose the law of every other country, carefully avoids, in regard to offences which ordinarily implicate a large number of individuals, the horrid spectacle of indiscriminate slaughter, and therefore authorizes the court in these cases to affix either the punishment of death or transportation. If the gentleman had been solicitous not to overstate the case, he would, before making this grave charge of sacrificing the principles of justice to the base calculations of self, have looked a little further into the origin of this law, and he would then have discovered that, in the preamble of the original act, omitted in the revision, the motive is set out which is to avoid an unnecessary shedding of blood, by enabling the courts, after a sufficient example has been made, to give sentence of transportation only. The purpose, therefore, is evident: in the first place, to punish with death the leaders, those who stir up and foment the insurrection, and with a just consideration and humanity to withdraw that penalty from subordinates in guilt, while the safety of the State is consulted by removing them out of

the United States. And if the gentleman who wrote this note had not skipped over, in his citation, the 38th section of the same revised statute, he would have found the extreme care which the legislature took to avoid any hasty conviction of slaves charged with such offences. The legislature knew it was a subject upon which the public mind was likely to become excited; and that section provides that where the testimony of blacks shall be received, for the purpose of convicting the slave, such testimony shall not be deemed sufficient, unless it is supported by other and pregnant circumstances, uniting to produce conviction of guilt to the minds of the jury who may have charge of the offender. No, sir; no such motive exists as the writer of this note supposes. And the reason why in my State that particular offence is punished inflexibly by death to the white man is obvious. A white man who joins in such an insurrection stands without excuse, and is necessarily a ring leader. He is a person not imposed upon, but imposing upon others; and the legislature wisely and justly determined that no discretionary modification of the punishment should be left in regard to him, when engaged in such an insurrection against the peace and lives of the community. But, sir, the whole legislation of my State—I do not mean to distinguish between that and other Southern States; I speak of her, because I know what her laws are—is marked by the extremest care for the lives of those slaves who are unfortunate enough to be charged with capital offences. They are tried by the same tribunal that tries the white man. They have a right to counsel, if not retained by the owners, assigned by the court. They have a right to challenge thirty-five jurors peremptorily, and to be assisted in these challenges by their counsel. They can appeal to the Supreme Court; and, in order to give them the largest security that is attainable against improper influences, and the benefit of every safeguard against improper conviction, while any freeholder is competent to sit upon the trial of myself for my life and death, no freeholder, who is not also a slaveholder, is a competent juror to pass upon the life of a slave.

Now, Mr. President, I wish it to be distinctly understood—it is for that purpose I have brought this subject forward; it is for that purpose I have noticed the note to which I have called the attention of the Senate—that the inference drawn from our legislation, as well as from detached expressions and incidental observations contained in law reports, to which I alluded the other day, are very well calculated to mislead the mind, and to produce very unjust, and, consequently, unfavorable, impressions as to the state of the public mind in the southern country in regard to the slaves who are subject to our control.

Permit me just to read a marginal note of a case decided in North Carolina, no longer ago than the month of June last, where a slave was charged with the murder of a white man, and had been convicted of that offence in a court of law. His case was brought to the Supreme Court upon exceptions to the judge's charge below, and the judgment was reversed, and a new trial granted. This is the marginal note, stating the principle laid down by the Supreme Court:

“If a white man wantonly inflicts upon a slave, over whom he has no authority, a severe blow, or repeated blows, under unusual circumstances, and the slave at the instant strikes and kills, without evincing, by the means used, great wickedness or cruelty, he is only guilty of manslaughter, giving due weight to motives of policy and the necessity for subordination.

“The same principle of extenuation applies to the beaten slave's comrade or friend, who is present, and instantly kills the assailant, without, in like manner, by the means used, evincing great wickedness or cruelty.”

Now, I think I may safely challenge the world to show a more tender consideration for the passions and feelings of a human being than is manifested by that wise, moderate, and just rule which the Supreme Court has laid down, by which the life of an unfortunate slave was saved, who, smarting under gross ill-treatment, had upon the instant taken the life of a white man, and with a weapon likely to kill. Sir, we ought to understand, I wish our northern friends to understand, that in dealing with this subject they are not dealing with inhuman relations of society existing among a savage people, but with an institution existing in a Christian land, in which slaves are ruled by Christian masters, in which their condition is mitigated by the operation of the principles of Christianity, and therefore there should be no state of mind among our friends at the North, founded upon another and mistaken supposition unjust to us, and which, at this particular juncture, is calculated to produce very mischievous results.

But then, sir, slavery must be remembered and looked at in another point of view. It is with us a “fixed fact;” the origin of it is a matter of no sort of importance in the inquiry how this subject is to be dealt with. In the origin of African slavery here, as far as legislative action is concerned, we have a common complaint against the mother country, before our revolution. As far as individual conduct is concerned, the only difference between ourselves and the North is, that their ancestors brought slaves to ours, and ours purchased them of theirs. Here they are—three millions of them. They cannot be removed; they cannot be emancipated. Here they must be; here they must continue as slaves. Whether it is desirable in itself that they should continue or not as slaves, is a matter of no importance to determine, because it is impossible that the two races can co-exist under any other relations than those which now subsist between them. It is no crime against humanity to maintain these relations; for I defy the wit of any man to point out any change in the general relation of the slave population in the South by which their condition would not be rendered vastly worse, their happiness diminished, their hardships increased, their food and clothing lessened, and their condition made in every respect intolerable. We must, then, be permitted to do the best we can. If there be wrong in the slaves being among us, it is a wrong for which we are no more responsible than our northern brethren. We will not go back again to cast reproach upon the ancestors of either; but in the actual bringing of the African race here, in the planting of them upon our soil in a state of bondage, theirs were just as much involved in the offence, if offence it was, as ours.

Well, then, Mr. President, the question arises—for it is to this particular purpose that I make these remarks—what is it that we have a right to ask of our northern and northwestern friends and fellow-

citizens, in reference to the subject of slavery? Being an existing institution, being such a one as I have described it—it being absolutely necessary and inevitable, so far as any human legislation can be brought to bear, or any human foresight is able to discover, that it must continue—what have we a right to ask from our northern friends?

In the first place, we have a right to ask an effectual bill for the recapture of fugitive slaves. That must lie at the foundation of any pacification of feeling between the North and the South. Without it, every attempt to settle the agitating question will be as insecure and tottering as a house built without a suitable foundation. This is a claim of right; this is a demand founded upon the Constitution; this is not a matter of question or debate. If there is any thing in the Constitution free from doubt, difficulty, or dispute, it is that that instrument gives us a right to have our fugitives surrendered to us. If the Constitution gives that right, it gives us, as a necessary consequence of it, a right to demand an effectual bill to carry out the designs of the Constitution promptly, and, as far as human means will avail, certainly.

Now, Mr. President, I desire to say something upon the subject of this bill—what it should be, what is the remedy which we have a right to ask, and which the Constitution guarantees to us.

In the first place, I remark that the framers of the Constitution designed to carry out this principle—upon which this part of the Constitution was founded—that, although the States existed under separate organizations, they should still be considered as one to this purpose; that each should repose entire and absolute confidence in the integrity and capacity of the judicial tribunals and legislation of every other State to administer justice in regard to all its citizens and subjects; and, therefore, that, both with regard to fugitives from service and fugitives from justice, there should be an imperative obligation to restore the respective fugitives to the jurisdiction from which they escaped, and make them amenable in every respect to the determination of that jurisdiction; that the two cases stand upon the same foundations, and were intended to be governed by the same principles.

The provision of the Constitution as to fugitives from justice is in these words:

“A person charged in any State with treason, felony, or other crime, who shall flee from justice, and be found in another State, shall, on demand of the Executive authority of the State from which he fled, be delivered up, to be removed to the State having jurisdiction of the crime.”

“Who shall flee from justice.” But an innocent man fleeing from prosecution commenced on false ground, maliciously prosecuted, or to be tried by an arbitrary tribunal, is not, in a strict and proper sense, fleeing from justice; yet, within the meaning of the Constitution, he flees from justice who, being charged with treason, felony, or other crime in a State of the Union having jurisdiction of the subject, leaves the State to avoid a trial. The meaning of the Constitution, was, that that jurisdiction shall be taken to have the capacity and integrity to determine justly; and therefore when he flees from it, whether in fact guilty or innocent, he is to be treated as a fugitive from justice.

As to fugitives from service, the Constitution provides thus:

“No person held to service or labor in one State, under the laws thereof, escaping into another, shall, in consequence of any law or regulation therein, be discharged from such service or labor, but shall be delivered up on claim of the party to whom such service or labor may be due.”

The two cases are in principle precisely similar. The fugitive from justice is to be delivered up to the Executive, who represents, in external transactions, the justice of the State; the fugitive from labor is to be delivered up on the claim of him to whom such labor may be due, and each is to be returned to that jurisdiction to which he is properly amenable; and the question whether one is guilty, or the other is rightfully a slave, is not a question to be transferred to the jurisdiction in which the fugitive may be found.

This, Mr. President, was the view of those who passed the act of 1793. In the first place, that act of 1793 includes, under the same statute, provisions in respect to both of these cases. In the next place, it authorizes the delivering up of the fugitive from justice, upon the transmission of evidence to show that he has been duly charged in the State from which he escaped, and to whose justice he ought to be amenable. And, in regard to a fugitive from labor, it authorizes the master, his agent, or attorney, “to seize or arrest such fugitive,” take him or her before any one of the officers named in the act, and upon satisfactory proof, either oral or by affidavit, &c., the officer is to give a certificate to the claimant, his agent, or attorney, “which shall be sufficient warrant for removing the said fugitive from labor to the State or Territory from which he or she fled”—not, shall be sufficient proof that the person delivered up is a slave or owes the labor to the claimant—not, shall settle, or determine, or adjudicate the question. No; that question is open, to be settled by the jurisdiction of the State from which he escapes. To that he is to be returned. There, if he is wrongfully detained in slavery, he must make his appeal to the proper tribunals. According to the provisions of the Constitution of the United States, as recognised in this statute, it is to their justice and their impartiality the whole must be confided. And, Mr. President, it was all important that such a provision should be made. We know well that foreign States are not in the habit of surrendering fugitives from justice or from labor. Each State seems to have considered itself benefited, as its neighbor was injured, by its receiving, countenancing, and entertaining fugitives from justice; and when a slave escaped, as the law which recognised slavery was strictly territorial in its operation, of course the State or Government to which he escaped denied the right to reclaim the fugitive. It was, therefore, indispensable to the formation of our Constitutional Union that there should be introduced a provision by which the ordinary practice and doctrine of States in regard to both of these cases should be reversed—a provision by which the domestic question should be left to the domestic tribunal—should not be transferred to another jurisdiction, by the escape of the individual, but should in every case be submitted to the proper domestic jurisdiction, by returning the fugitive, whether the claim upon him should be for justice or for service.

It was said by the honorable Senator from New York, (Mr. SEWARD,) that this was a compact in the Constitution to be executed only by the States. Now, whether it was a compact to be executed by the States or not, is a question not distinctly open for our consideration at this day.

In the first place, I do not agree in the opinions which I have heard expressed by the most eminent gentlemen, that the Supreme Court of the United States has committed an error in supposing the jurisdiction was in Congress. Certainly those who passed the act of 1793 thought that they had jurisdiction over it; and the Supreme Court of the United States have determined that Congress has jurisdiction over it. It is, therefore, no more a compact between the States than any other portion of the Constitution is a compact. The Constitution forms a government. The legislative power of that government rests here, and it is for Congress to give effect to every provision of the Constitution requiring legislative action.

Again, the Senator from New York said that the slave States induced legislation by Congress—referring to the act of 1793. Now, Mr. President, I did not exactly like that phrase: that the slave States, or the representatives from States owning slaves, had, in some way or other, prevailed upon Congress to transcend its power, with some view or other. Why, sir, there is no authority upon earth for saying so. The act of 1793 was approved upon the 12th of February in that year. It was during the second Congress held under the Constitution. It was just at the close of the Congress held under the rule of representation fixed in the Constitution itself, and before the new modelling of the representation under the then first taken census, when this body, if I recollect aright, consisted of sixty-three members. Now, I have taken the pains to look a little into this matter, and I find that this bill passed in the Senate of the United States apparently without contest. A division was not made; the yeas and nays were not taken; and there appears to have been a general and universal acquiescence in the propriety of the measure. I find that among the members of the Senate at that time were the following gentlemen, who had been members of the convention that framed the Constitution of the United States; John Langdon, of New Hampshire; Roger Sherman of Connecticut; Rufus King, of New York; Robert Morris, of Pennsylvania; George Read and Richard Bassett, of Delaware; Pierce Butler, of South Carolina; and William Few, of Georgia—certainly I may be permitted to say a collection of highly respectable names—names of eminence before the country. In the House of Representatives the bill was passed upon the yeas and nays, and the vote stood, 48 yeas and 7 nays. Of those voting, who were members of the convention who framed the Constitution, were: Nicholas Gilman, of New Hampshire; Jonathan Dayton, of New Jersey; Thomas Fitzsimmons, of Pennsylvania; Hugh Williamson, of North Carolina; and Abraham Baldwin, of Georgia. And it is remarkable that every individual who had been a member of the convention that framed the Constitution, and was a member of the House of Representatives at that time, who voted at all, voted for the bill, and not a single one of them is to be found among the small number of seven who voted against the bill. Those seven were: Messrs. Livermore, of New Hampshire; Thatcher, of Massachusetts; Sturges, of Connecticut; Niles, of Vermont; Treadwell, of New York; Mercer, of Maryland; and Parker, of Virginia.

Thus, sir, we have this act passed at this early period, the passage of which was participated in by this considerable number of gentlemen who had been members of the Convention, every one concurring in its passage in the Senate, without a division, and with a very small minority of opponents in the House of Representatives. Now, if any thing can fix the meaning of this Constitutional provision, it is certainly fixed by this bill. Upon the face of the Constitution, this act of surrendering fugitives from labor is associated with the delivering up of fugitives from justice, provided for in the same general terms—the difference in the phraseology to be entirely accounted for from the minute difference in the subject matter; acted upon as such in 1793 by both Houses of Congress, and that act never repealed, nor complained of except as, from subsequent events, it has become inefficient to accomplish the end proposed.

But, Mr. President, we have carried this matter of delivering up fugitives still further. We have made extradition treaties with foreign Powers; we made one with England in 1842—the celebrated Ashburton treaty, containing an extradition article; and one with France in 1843, and with divers Powers since. Now, what do these treaties provide with regard to foreign States? That we shall deliver up fugitives from such countries, upon such evidence of their guilt being produced as, if the offence had been committed here, would justify their commitment for trial; and in 1848 we passed an act of Congress for the purpose of carrying into effect these extradition treaties; and by the second section of that act it is provided that, upon any investigation had under the act, sworn copies of affidavits taken abroad may be used as evidence.

And who is the officer, under these extradition treaties, to whom this jurisdiction is submitted? A commissioner, appointed by the circuit court of the United States. Now, all that we ask is, that there shall be such a bill providing for the surrender to us of fugitive slaves, upon the making out of such a case—a *prima facie* case—a case in which such evidence shall be produced before the commissioner, as, if it were a prosecution, he would fully commit the party for trial; such evidence as will shew the fugitive to be *prima facie* subject to the authority of the person who claims him, belonging to him, and owing him service or labor. Now, sir, are we not entitled to so much as this? Is it not an indignity to offer us less? Upon what principle should less be offered to us? Are we to be told that our judicatures are not to be trusted? that we will not administer justice? that we are in the habit of suffering persons who are free to be converted into slaves? that freemen may be kidnapped, introduced among us, held among us as slaves, and refused redress by our courts and our laws? That is the ground. It is direct, wanton, inexcusable insult upon the character and the judicature of every Southern State. Upon what possible pretence can a discrimination be made? Great Britain or France sends here and demands that a certain person found among us shall be delivered up, to be



tried for murder, or for an assault with intent to commit a murder. We do not pretend to require full proof of guilt. We agree that, upon such evidence being produced as would justify and require commitment for trial here, the party demanded shall be delivered up to the foreign jurisdiction. Will you require more before you restore fugitives from labor to the jurisdiction of one of the States of the Union from which they have escaped?

Mr. President, such discrimination is in itself too insulting to be borne. The bill we want is not such a bill as the amendment to the one upon your table, proposed by the honorable Senator from New York, (Mr. SEWARD.) What is his bill, sir? Why, it has provisions for a jury trial. It has provisions for continuance, with its arrangements for bail bonds—bonds for prosecution and appeals. It is upon its face an invitation, an encouragement to accumulation of expense and procrastination of trial. How must it be considered by us? Is it not a plain "keeping of the word of promise to the ear and breaking it to the hope?" Is it any thing less or more upon its face than the confession of a duty, accompanied by a plan carefully and studiously arranged to prevent the duty from being performed? Is it not worse than an open denial? That would at least be manly; but by this bill you say, I acknowledge I am under this constitutional obligation, but I will provide for its discharge by such means as will render that discharge impossible or worthless. To refuse any remedy will be merely an injury; this is to complicate the injury with insult. It is to suppose that we are weak enough to imagine that such a measure can be sincerely designed to secure to us our property. It is to suppose us so stupid as not to be able to see through the most shallow artifice or detect the most clumsy device for concealment. Now, whether it is so designed or not, that is the way in which it must be regarded by the Southern people of this country, especially when they recollect that in 1793 your ancestors, the great men of the country, who aided in forming this very Constitution, recognised the right of the South, the right of slaveholders at the South, to have their slaves delivered up on a summary investigation by an examining court, placing their right upon the same footing with the right of a State demanding one who is amenable to her justice. I have no hesitation in saying that, for one, sir, I am against any such measure as that proposed by the Senator from New York. And if it were possible that this miserable expedient to hold out the show of relief, while all effectual relief is refused, could be incorporated into the bill before the Senate, I must unquestionably vote against its passage and resist it in every shape. However our understandings may compare with those of our Northern friends, let me assure them that we are neither stupid nor foolish, but know very well that a protracted litigation in New England, New York, or the Northwest country, to be extended from one to three years, in such an investigation, and the result to depend upon a unanimous verdict in favor of the claim of the master, holds out an illusion to our hopes so thin and transparent that none but fools or madmen can take it for a reality. All we ask, Mr. President, upon this subject, is the same regard for the rights of slaveholders that was given in 1793—the same respect for an allowance of the impartiality of our laws, and their true and faithful administration, which are now extended every day to foreign Powers with whom we have made extradition treaties. It is, sir, that we shall have extended to the one class of cases the same summary, prompt, and effectual remedy which the Constitution intended, and which the act of 1793 extends to the other class; that those who are held to labor among us and escape shall be sent back again in precisely the same summary manner as those who are charged with offences among us and escape; and that our jurisdiction shall finally determine whether the charge be a true one in the one case, and the claim of service will be well founded in the other. I have taken more time upon this matter, Mr. President, than under other circumstances I should be warranted in taking, because I feel that it is right that our Northern friends should understand this matter to be of the very highest importance. If this cannot be conceded to us, then, as to restoring feelings of confidence, as to making us understand or believe, in the Southern country of the United States, that our Northern friends and fellow-citizens are generally disposed to do us justice, I do not hope or expect it from any other measure. This is fundamental; this a plain right; here is an evident constitutional duty. He who openly refuses to discharge it, declares that he regards neither the Constitution nor good faith. He who undertakes to discharge it but in such a manner as to evade a faithful execution of the duty, does worse; for he trifles with both Constitution and good faith, under pretence of respecting and obeying them.

Now, Mr. President, I have submitted these views to gentlemen, and those only, who hold themselves bound by constitutional obligations. If the sentiments uttered upon this subject by the honorable Senator from New York (Mr. SEWARD) the other day are the sentiments of this body, I should not, and if I believed them to be the sentiments of this body, I certainly would not, have spent my time in submitting any remarks to the Senate. And if the sentiments he has avowed here are the sentiments of the Northern people generally—if he speaks even the opinions and feelings of the great mass of his constituents in New York—I say it is in vain to expect that mutual attachment and concord can be restored between the different portions of this country. What does the Senator say?

"We deem the principle of the law for the recapture of fugitive slaves unjust, unconstitutional, and immoral; and thus, while patriotism withholds its approbation, the consciences of our people condemn it. You will say that these convictions of ours are disloyal. Grant it for the sake of argument. They are nevertheless honest; and the law is to be executed among us, not among you; not by us, but by the federal authority. Has any Government ever succeeded in changing the moral convictions of its subjects by force? But these convictions imply no disloyalty. We reverence the Constitution, although we perceive this defect; just as we acknowledge the splendor and the power of the sun, although its surface is tarnished with here and there an opaque spot.

"We cannot, in our judgment, be either true Christians or real freemen, if we impose on another a chain that we deny all human power to fasten on ourselves. You believe and think otherwise, and doubtless with equal sincerity. We judge you not, and He alone who ordained the conscience of man and its laws of action can judge us. Do we, then, in this conflict, demand of you an unreasonable thing in asking that, since you will have property that can and will exercise human powers to effect its escape, you shall be your own police, and in acting among us as such you shall conform to principles indispensable to the security of admitted rights of freemen? If you will have this law executed, you must alleviate, not increase its rigors.

"The Constitution regulates our stewardship; the Constitution devotes the domain to union, to justice, to defence, to welfare, and to liberty.

"But there is a higher law than the Constitution, which regulates our authority over the domain, and devotes it to the same noble purposes."

Now, sir, here is a distinct announcement, impossible to be misunderstood, that, though the persons for whom the Senator speaks reverence the Constitution, yet they consider a law for the surrender of fugitive slaves passed in pursuance of the Constitution, as a violation of the Constitution, and as immoral! Here is a distinct announcement that they consider it as a discharge of the high duties of hospitality, when they receive our fugitive slaves, entertain them, and withhold them from us. Here is an open and direct encouragement on the part of the Senator from New York, (Mr. SEWARD,) for slaves to escape to the freemen of the North, and for Northern freemen to aid them in escaping. He assumes, then, that all will be received with open arms, and that the freemen of the North will be considered as having therein discharged the high duty of hospitality. Now, sir, if that is the case, how perfectly idle it is for gentlemen to talk about respecting the Constitution! He who obeys the Constitution only in what he thinks right, does not obey the Constitution at all—he but follows his own inclination; and he who, having taken an oath to support the Constitution, refuses to obey it because he thinks there is some "law above the Constitution" which forbids slavery, places himself in the same position—taking for his guide his own individual judgment and opinion, above and against the Constitution, which he can rightfully do only after surrendering the office he holds, and which he holds on the condition which that oath implies and intends to enforce. Here, sir, is a key to open the mind of the public to the honorable Senator's bill. His purpose is to extend hospitality to fugitive slaves. He announces it to be immorality to surrender them; and he then comes here and presents an amendment to the bill for the delivery up of fugitive slaves, which, of course, must be intended to carry out the views which he has announced upon this subject. Such a position is indefensible; it is immoral. Talk about morality! Immoral for a man to hold a slave! Immoral for a man to do what the associates of Paul, and James, and John did! Immoral for a man to do what the wisest and best men that ever lived upon the earth have done; and not immoral to open your arms, contrary to the express stipulations of the Constitution, to the fugitive slaves of your neighbor; to receive them, protect them, and throw around them such contrivances for making their escape effectual as no ingenuity shall be able to disentangle, and at the same time to taunt him with the declaration, "you are made your own police officer!" I have said, Mr. President, if these are the sentiments and feelings of the people of the North, generally—if the Senator from New York (Mr. SEWARD) knows and truly expresses their opinions and purposes, it is impossible harmony can be restored and the Union preserved. For one, sir, though by no means extreme upon this subject—quite the contrary—I have no hesitation in declaring, if this is the general sense and belief; if this is the code of morals; if this is the feeling of integrity which influences our Northern fellow citizens, directly or indirectly, to set aside constitutional obligations, and deprive us of the property which we hold; if this is the purpose that is to be carried out, it is scarcely desirable that we should remain in the Union. For what does that state of things imply? It implies this: that the States are associated together under a common Constitution, binding them to discharge towards each other certain duties, according to the terms of the Constitution; and yet you say to us, "We intend to discharge just the amount of duty towards you that we please—for we reserve to ourselves the right of deciding when any thing required of us is opposed by moral obligations, and, having so decided, to refuse its performance—while we hold you to the discharge of every obligation imposed by the letter and spirit of the Constitution." How could our connexion be long maintained under this state of things, with no public faith, no sense of private obligation on the one side to induce, and no power on the other to compel, the performance of constitutional duties? We should be left in a condition not only distracting, but dangerous to our present rights, whilst political immorality and bad faith would render our future insecure and worthless. Nothing, under such circumstances, could keep us together but a deep sense of the greater evils of parting. We should remain united, if at all, not from inclination or duty, but from a stern necessity; not from the hope of good in our connexion, but from the dread of the consequences of separation. But, Mr. President, I have not the smallest idea in the world that the Senator from New York (Mr. SEWARD) speaks the opinion of the Northern people generally, or the people of any one State in the Union. I believe they repudiate his sentiments; they hold themselves morally and conscientiously bound by the stipulations of the Constitution. I believe they will stand ready to enforce any law which Congress may pass upon this subject. I do not agree with some gentlemen here who have said, "Pass what law we will, it will not be executed." I have a very different opinion—a totally different opinion. This law may fail of execution in some instances: every law does. In the execution of this law, bias, prejudice, force may perhaps occasionally prevent its rightful results; but I believe that such a law passed by Congress will be as faithfully and generally executed in the New England States as any law upon our statute book.

I doubt not that men there will understand that, though they may entertain an opinion that a law is wrong, yet as citizens they have no right, when called to enforce it, to act upon their individual judgment of its merits—just as they would understand this: that if one were under sentence of death, their opinion that the law was barbarous and the punishment greatly disproportionate to the offence would not justify their interference, forcibly or by fraud, to prevent the execution of the sentence, the responsibility of enacting the law being not upon them, but upon those who made it. I believe there are many there—the great mass of the people, almost the total population—quite able and willing to apply these obvious principles to the particular subject under our consideration—the recapture of fugitive slave. Yes, sir, I have the fullest confidence in the patriotism, the intelligence, the sense of justice, and stern integrity of the great mass of the people at the North. They will see that whether we have slaves or not is no concern of theirs; that if to have slaves be an offence, it is no offence of theirs;

that if slavery be an evil, they do not endure it. And if it were wrong in itself *voluntarily* to surrender a fugitive slave who had escaped from his master, yet as honest men and good citizens, they will feel themselves bound to carry into effect a law passed in pursuance of the Constitution of their country—a Constitution formed by common and mutual concession, and declaring that such fugitives shall be surrendered.

Why, sir, any other doctrine saps the foundation of society. The principles of the Senator from New York render it impossible to count upon the execution of any law. The judge upon the bench may say, when called upon to pronounce judgment, that the act of the legislature, which it is his duty to enforce, transcends some moral obligation imposed on him by the law of God. He may say, I think the punishment immoral; I am of the opinion that no offence ought to be punished with death; or, I think this offence ought not to be punished with death. What is he to do, according to the doctrines put forth by the honorable Senator from New York, (Mr. SEWARD?) I conceive clearly what he ought to do; either to pronounce sentence according to the law which he has bound himself by oath to execute, or to resign his office. But, according to the views put forth by the honorable Senator from New York, he might continue to hold the office and appeal from the law of the land to the law of God, and yet claim to be a loyal subject of the State and a faithful administrator of the laws of his country, leaving the law unexecuted, while he holds his place and receives his salary. These principles destroy the foundations of all law and justice. They give us a fanatical and wild notion, that every man in civilized society has a right as a citizen to make his own judgment a rule of conduct paramount to and overruling the law of his country.

Now, Mr. President, no gentleman who admits the obligation of the Constitution, who admits the obligation of this article of the Constitution in relation to fugitive slaves, can deny the implied irresistibly following obligation to carry it into execution, just exactly with the same fidelity, good faith, and promptitude as though it contemplated what, in his view, is the most desirable object in the world. That is the duty. He is to execute this great fundamental law faithfully. It is the law to him. He swears to be a good and obedient servant to that law, and he has no right to render a less effectual obedience because he disapproves the object of this particular part of the Constitution.

Therefore I have submitted these observations to show that, according to the frame of the Constitution, and according to the construction put upon it by those who aided in its formation—adopted with remarkable unanimity in both Houses of Congress—this is not a case for trial by jury, but a case for a preliminary investigation before a magistrate, under prompt summary examination, upon affidavit or oral testimony, as the case may be; to be followed by delivering up the fugitive upon a *prima facie* case made to the satisfaction of the officer who has proper jurisdiction of the question.

In saying, sir, that the redelivery of fugitive slaves is subject to the same rule as the surrender of fugitives from justice, and was so treated by the Constitution, and by the framers of the act of 1793, I did not, of course, intend to say that the cases were, in all respects, in all subordinate particulars, identical with each other, but that they depended upon the same general principles, and were liable, according to the view of the framers of the Constitution and of that act, to a similar mode of proceeding, and that a claim for the return of a fugitive of either class was not to be submitted to the decision of a jury. Nor when I said that it was a case to be determined upon *prima facie* evidence, did I mean that it was to be decided upon slight suspicions or remote probability. I meant this: that it was not a case to be determined upon what is called technically *full proof*, or that amount and stringency of evidence upon which a final judgment passes, concluding the whole matter of right; and I mean, sir, to say, that to require such proof would be inconsistent with the whole of our legal notions, and the practice of all our judicial tribunals. Juries are never empanelled to pass upon a question of right between parties, except when the determination of that right and the judgment following upon it are to be a decisive settlement of the question at issue. Nothing, in my judgment, could be more absurd—meaning by that term utterly inconsistent with all our legal notions and modes of procedure—than to say that a question should be determined by a jury in the State of New York or the State of New Hampshire, and a judgment passed upon that determination, and immediately afterwards be made the subject of re-examination between the same parties in another jurisdiction, where what had been so determined would not be admitted, and ought not to be admitted, as even *prima facie* evidence of the truth. The tribunal proposed by the amended bill of the honorable Senator from Virginia (Mr. MASON) is fair, just, and adequate. It consists of commissioners appointed by the courts of justice, by judges separated from all the ordinary influences which may pervert the judgments of men; and because selected by and amenable to such judges, the commissioners themselves will be removed from such influences. The judges themselves hold their offices by an independent tenure, and have a compensation beyond the reach of executive or legislative power. Judges living in the free States cannot be supposed to have any unfair bias against the claimants of freedom, and may safely be trusted with the selection of commissioners. These commissioners are not required to give judgment according to the mere facts, as sworn in an affidavit, nor are they bound by the form and appearance of any technical evidence. They are to hear and determine the question in a summary way, it is true, but still to hear and determine—not upon *ex parte* evidence, not according to affidavits in a prescribed form, but upon all the evidence submitted by both the parties. The evidence is to be directed to the three important facts in question: First, is the person claimed a fugitive? Has he actually come from the State whose citizen claims to have him surrendered? In the next place, the question is to be examined and determined, does the person so claimed owe service or labor in the State from which he has fled? In the third place, is that service or labor which he owes due to him who makes the claim? Upon the establishment of these facts to the satisfaction of the commissioner, the surrender is to be made. The surrender is not made upon that degree of evidence on which one charged with crime may be arrested and bound over for trial. For that purpose even *prima facie* evidence is not required, but reasonable ground of suspicion is enough.

Here *prima facie* evidence seems properly to be called for, and under the bill will be required. But full proof is not and ought not to be demanded. So far as I know, it is never required, and, in my judgment, ought never to be required, except before a tribunal authorized to make a final determination upon the question, and settle it upon its merits between the parties forever. This proposed enactment is, therefore, a well-considered and well-guarded provision, preventing, as far as human foresight can prevent it, all reasonable apprehension of injustice, fraud, or oppression. It is certainly free from the objection raised by the honorable Senator from New Hampshire, (Mr. HALE,) that, under its operation, a resident person, a citizen of one of the Northern States, might be seized and transferred to the South as one held to service and labor there. If a resident or citizen, his residence or citizenship must be capable of easy proof before the commissioner who is to hear and consider all the evidence.

This bill is by no means so liable to misapplication to improper purposes as the conventions for the extradition of criminals between the United States and foreign countries. See, sir, how easily—more easily, certainly, than this bill—these extradition treaties might be used for purposes for which they were never designed. In the treaty between Great Britain and the United States, one of the offences for which a fugitive is to be delivered up is an assault with intent to murder. Now, we know that according to the law of that country, as well as our own, an assault made upon a public officer while in the discharge of his public duties, if intended to produce death, or likely to produce death, is deemed an assault with intent to murder. Suppose, then, that in the midst of the political excitements that are continually agitating the popular mind in Ireland—the people of Ireland seeking after what they demand as justice from the British Government, what Great Britain refuses to grant them, denying it to be just—there should be committed an assault upon a public officer charged with the execution of the laws by an Irish malecontent, who should make his escape to this country; and suppose that he is reclaimed upon an affidavit, sworn in Ireland, charging him with the offence: under the treaty, and the law to carry it into execution, he must be surrendered. And, when carried back under this charge, what hinders his being put upon trial for a political offence, to which the treaty does not extend, and to which this Government never would have consented to extend it?

I consider, therefore, Mr. President, that the amendment which the honorable Senator from Virginia (Mr. MASON) proposes to introduce as a substitute for the bill reported by the Judiciary Committee, is, in its general scope and provisions, free entirely from objection. If there are any amendments in matters of detail which it may seem to require, they can easily be engrafted upon it. And permit me, while I am upon that subject, to say, as I think I can say with confidence, not only for myself, but for every Senator from the South, that if there be any portion of that bill liable to just or reasonable exception, likely to give opportunity for any successful fraud, to entrap any person who is now free into a state of bondage, or to give encouragement or assistance to kidnappers, we will not only gladly support, but shall be prompt to propose every proper amendment. Neither we nor our constituents desire aught but what justly belongs to us. We wish a bill which will insure the return of our slaves, and not endanger the rights of freemen. And we look with horror upon every contrivance or attempt to bring to the condition of a slave any man who is now free.

Yes, sir, and I can say, after a practice of more than thirty years at the bar in a slaveholding State, that I have never known an instance, that I have never heard of an instance, in which an action was brought by a black man against his supposed master, for the purpose of trying the question of freedom or slavery, in which there was the slightest ground to suspect unfairness or bias against the plaintiff; and I may say, on the contrary, that if there be any leaning in the minds of our jurors, it is in favor of him who, upon probable grounds, sets up the claim of freedom. I speak with entire confidence of these matters, as they are in my own State; and I presume what is true of North Carolina is true of every one of the slaveholding States.

Several SENATORS. Certainly, certainly; every where.

Mr. HALE. The sympathies of the people are against the law.

Mr. BADGER. No, sir; they are in exact accordance with the law. The hearts of our people are in favor of the right, and the laws secure it; and I wish the hearts of all the people of the United States were in the same proper condition.

Sir, I do not know what are the particular provisions in other States; but in my own, so careful are our courts, and so careful have they always been, to prevent undue advantage being taken when this question of freedom is raised, that the first thing the courts require is, that the master shall enter into bond and security that he will not remove the slave from the State, or beyond the jurisdiction of the court, until a final decision shall be had, and in the mean time will allow him to attend to the trial of his cause, and treat him with humanity.

This, then, Mr. President, is a provision of law for the recovery of fugitive slaves which we think it is absolutely necessary should be adopted. It is one sufficiently guarded to avoid injustice to those who may be falsely claimed as fugitives; and it seems to me sufficient, if fairly and honestly carried into execution—as I doubt not it will be—to insure to those who are really owners of slaves that have escaped from the State in which they lived, a return of their property to them, and a devolution, if there be any doubt in the case, of the ultimate question of freedom upon the tribunal that has proper jurisdiction of the subject and rightful authority to settle the question. It is to return this question, not to a set of savages, not to a collection of heathens, not to a people who are insensible to the claims of humanity, or to the powerful though gentle influence of religion; but to a people as sensible to such claims, as ready to acknowledge them, as prompt to discharge them, (I claim nothing more for them than for our friends and fellow-citizens who live in the Northern portion of the Union,) as any people on earth. For all this which we ask, we have the guaranty of the Constitution. We rest not our claim upon the generosity or magnanimity merely of our Northern brethren—though I feel that we might safely rely upon these—but we rest it upon strict right; we demand it, and appeal to their

sense or justice, pledged to us in the fundamental law of the land. It seems to me that, upon every view of the subject, this measure should meet with the decided approbation of all friends of the Constitution, that there should be no attempt to clog the provision with such arrangements for delay and expense as must, in the ordinary course of things, render the measure utterly inefficient; useless to us for any practical purpose, and calculated only to irritate and inflame the sore and excited feelings of the South by a false show of granting what is in fact denied.

Mr. President, with regard to the Wilmot proviso, I will endeavor to reduce what I have to say within a narrow compass.

In the first place, I will remark that my own view with regard to the proper manner of arranging this difficulty is, and has all along been, that we should adopt and carry to the Pacific ocean the Missouri compromise line. I have thought that it in itself was a just and reasonable settlement, commended to us, besides, because it is an old measure—a measure heretofore adopted with practical results of peace and quiet to the country, and having therefore as much of that kind of reverence which belongs to old things as can well be found in a nation of so recent origin as ours.

I have preferred it also upon another ground. I believe that our country is too large. I was utterly opposed to the extension of our domains which resulted from the treaty with Mexico; I did my best to get that treaty so amended as to exclude all acquisition of territory; I voted against its ratification, because of the acquisition, and for no other reason. And, Mr. President, believing that our country is too large, believing that our danger lies in an indefinite extension of our limits, a premature expansion of our population, a weakening of all the central parts without adding real strength to the circumference, I should delight in seeing that Missouri compromise line applied, because I believe it would close the account of acquisition of territory on the part of our Government forever. If the character of territory, which might be acquired north or south of any given line, were fixed so as to fall in with the views or interest of either the one or the other portion of the Union, a constitutional majority, in my judgment, could never be procured in this body for the acquisition of any territory, north, south, east, or west. And, sir, I mention this because I intended to state frankly my own views. I do not suppose it within the reach of possibility that any such measure can be adopted. I have no ultimatum to propose upon this subject. I go for the adjustment of this question, and for moderating and letting down the excitement upon each and every topic connected with it, so that, if possible, moderate men, those who are not extreme, those who do not insist upon pressing their own notions in their ultimate extent to actual adoption, may meet together upon a common ground. Now, it seems to me that, after what has been said upon this subject by so many able and distinguished gentlemen upon this floor, and particularly after the observations made the other day by the honorable Senator from Massachusetts, (Mr. WEBSTER,) we ought to be able to unite upon a proposition to drop the Wilmot proviso altogether. The honorable Senator from Michigan (Mr. Cass) is clearly in favor of having no proviso; but he meets the proviso upon the ground of want of constitutional power to apply it; and as others, who may desire to see it applied, do not enter into and adopt his particular view upon the subject, of course the opinion and judgment which he gives do not have upon this question the weight to which his high and eminent character so justly entitles him. But from the Senator from Massachusetts we have a reason for dropping this odious proviso which may be received and acted on by every man, whatever his views of the question of power may be, without violating, in the slightest degree, the notions of legal right, or appearing to surrender constitutional authority. Now, sir, I am one of those who believe in the constitutional power. I have had occasion to say, and have endeavored, so far as I was able, to prove it on the floor of the Senate; I have said it at home; I have said it every where; I have said it at large mass meetings; and I choose to say it again, because I have no concealment upon this subject, and believe that what I aim at can be best accomplished by a frank avowal of the truth, so far as I understand it—I have said, and I say again, that Congress has the constitutional power to apply the Wilmot proviso to this Territory, and to all the Territories that belong to the United States; I believe that Congress has entire power and jurisdiction over the Territories; that we are the supreme lawgiver over them; may dispose of their institutions as we think right, and let in and shut out just whom and just what we please. But, Mr. President, when the power to adopt a measure is admitted, permit me to say that very little is done towards ascertaining that it is proper that the power should be exercised. An abuse even of an admitted power is not only just ground of complaint, but, under circumstances, it may be just as fair and reasonable a ground of resistance as if the power exercised were usurped. If our Government were a simple despotism; if all the powers of all its branches were centered in the hands of one single ruler, it could not be said on any occasion that he *usurped* power; but if he abused the powers thus confided to him to purposes of oppression and injustice; if his administration rendered property insecure and life intolerable, beyond all doubt there would be the same right of resistance as if the power thus unjustly and oppressively used had been usurped, instead of having been conferred. The one is a case of unjust seizure of power; the other is a case of wanton disregard and violation of the confidence upon which the power was given. One is violence; the other is fraud. One is open rapine; the other is breach of trust.

Now, sir, it has been said, and well said, truly and philosophically said, that "the assertion of extreme right is always odious." In political matters such an assertion of extreme right, such a resolution to do whatever we may lawfully do, to the utmost extent of our power lawfully to do it, always ends in despotism. It is a principle in the private business transactions of life that inevitably terminates in dishonesty. He who sets out in the transactions of life with the fixed, inflexible resolution always to obtain, to the utmost, every thing that is due to him, will ultimately prove that the maxim is entirely inconsistent with integrity, and will end by seizing things that belong to another. No power in any Government, and especially in a Government like ours, should be exercised,

the existence of which power is denied by many, and the propriety of exercising it in a given case is doubted by still more, unless under the influence of strong reasons, and for the accomplishment of justifiable and important ends. If this proposition be true, I ask upon what footing gentleman can propose to apply the Wilmot proviso to the Territories to which we hope to give a form of territorial government? What is the important end which is to be attained as a consequence of it? Gentlemen tell us on all hands that in point of fact slavery cannot be established in these Territories. Many gentlemen tell us that, in point of law, slavery now stands excluded from those Territories. Well now, sir, I have said, and I say it again,—for I do not conceal any views I may entertain upon this subject—that I belong to that class of public men who entertain the opinion, and I have a very strong conviction of its correctness, that the civil or municipal laws which prevailed in these ceded Territories at the time they passed into our hands, whether such laws relate to the existence or the non-existence of slavery or any thing else, continue in force; that they are not repealed by any silent and necessary operation of the Constitution, and that they continue until the conqueror, until the United States, acting through the legislative department of the Government, shall think proper either to repeal or modify those laws, or to commit to some subordinate legislative authority the power of doing it. But there are many gentlemen, perhaps the majority of Southern statesmen, who entertain a different opinion from that which I have expressed upon this constitutional question. They think that these laws are superseded by the silent operation of the Constitution, or, at any rate, if nothing is done by Congress to put them in force, they fail as being a part of those political regulations in the conquered countries inconsistent with the general scheme of our fundamental law.

Now, sir, in this state of divided opinion as to the legal right to consider slavery a subsisting institution, recognised and protected by law, by the Constitution, in these acquired Territories—in the generally conceded opinion that there is no likelihood, in point of fact, that slavery will ever reach these Territories, what motive can be assigned, what reason which addresses itself to the mind of the statesman can be urged, why this proviso should be adopted? It is not a provision which is to accomplish any object—which is to exclude by its force from the Territory what would otherwise be found there. There is, therefore, no end to be accomplished for which it is necessary; there is no result to be produced by it that will not come without it. There can, therefore, be no strong or justifiable reason for applying it to these Territories. And then, if I am correct in the general view which I have undertaken to lay down as to the proper qualification upon the exercise of disputed powers, or even admitted powers, in a mode exceedingly distasteful to a large portion of the country, it would seem to follow clearly, that this Wilmot proviso ought not to be passed. Why, sir, must it not be understood—and cannot gentlemen see that it cannot be otherwise than understood—by the Southern people, the United States as an exercise of a power for the mere purpose of manifesting superiority—as a wanton going of that which is offensive and at the same time useless—as involving in itself a species of insult and indignity to those whose wishes upon this subject are outraged, and outraged causelessly? For one, I think it would be less offensive to Southern people, if it were an admitted fact that, according to the law of Mexico, African slavery existed in these Territories, and the Wilmot proviso should then be adopted. That would be doing us what we should deem a wrong; but for it some reason might be assigned, and there would be an object accomplished by it. You might say, “We deem it of high importance that slavery should not exist in these Territories; but it exists there now, and, without a prohibition, will continue to exist; and, however disposed we may be to gratify your feelings in this matter, we cannot sacrifice what we deem an important and overruling consideration to accomplish that purpose.” But now the adoption of the proviso stands without reason and without excuse. It is a mere assertion of superiority: it seems to involve in it something of taunt, of insult. It conveys to Southern people an impression of unwillingness to gratify their wishes, or save their feelings even, when, by so doing, nothing is lost to the majority and no advantage is gained by us. It is idle for gentlemen to say “we mean it not as an insult.” The proviso is unnecessary, if there is no reasonable ground for supposing that any thing will be accomplished by it that will not be accomplished without it; and, since you know how we must regard it, patriotism, statesmanship, the recognised obligations of good neighborhood, require you to forbear.

Now, Mr. President, supposing this proviso to be adopted, the question naturally presents itself, how would it be received by the people of the Southern States? Of the Southern States generally I undertake not to speak. Of their sentiments and opinions I know nothing, except as I gather them from what is said by representatives here, and see them shadowed forth in the resolves of their legislatures and of their primary meetings. But this much is certain: if we may judge from these indications, the application of the proviso to these Territories will be considered as a wanton violation of the feelings of the South, an insulting exercise of power; and, however it may or may not be resisted by outward action, it will be deeply resented in the inmost feelings of a large portion of the people of the South whose representatives have spoken upon the subject here.

Nor, Mr. President, must I forget that, in considering the effect which this proviso is likely to have upon the condition of the Southern mind, we must look to what has been said by Northern gentlemen in connexion with this subject. Permit me to call the attention of the Senate to a very brief extract from a speech delivered in the other end of the Capitol:

“In conclusion, I have only to add, that such is my solemn and abiding conviction of the character of slavery, that, under a full sense of my responsibility to my country and my God, I deliberately say, better disunion, better a civil or a servile war, better any thing that God in his providence shall send, than an extension of the bounds of slavery.”

Several SENATORS. Whose speech is that?

A SENATOR. Mr. Mann’s.

MR. BADGER. We have heard much, Mr. President, of the violence of Southern declamation. I have most carefully avoided reading the speeches of Southern gentlemen who were supposed to be lia-

ble to that charge. I happened, however, in the early part of this session, and before the other house was organized, to be in that body when there were some bursts of feeling and denunciation from Southern gentlemen, which I heard with pain, mortification, almost with anguish of mind. But, sir, these were bursts of feeling; these were passionate and excited declarations; these had everything to plead for them as being spontaneous and fiery ebullitions of men burning at the moment under a sense of wrong. And where, among these, will you find any thing equal to the cool, calm, deliberate announcement of the philosophic mind that delivered in the other House the passage which I have read: "Better disunion; better a civil or a servile war; better any thing that God in his providence shall send, than an extension of the bounds of slavery."

In other words, it is the deliberate, settled, fixed opinion of the honorable gentleman who made that speech, that rather than the extension of the bounds of slavery *one foot*—yes, sir, there is no qualification, *one foot*—he would prefer a disunion of these States; he would prefer all the horrors of civil war; all the monstrous, untold, and almost inconceivable atrocities of a servile war; he would pile the earth with dead; he would light up heaven with midnight conflagrations; all this, yea, and more—all the vials of wrath which God in his providence might see fit to pour down on us he would suffer, rather than permit, not one man who is now free to be made a slave—that would be extravagant enough—but rather than permit one man who now stands upon the soil of North Carolina a slave, to stand a slave upon the soil of New Mexico!

Yes, sir, here is a sacrifice of life and happiness, and of all that is dear to the black and white races together, to a mere idealism—a sacrifice proposed by a gentleman who claims to be a philosopher, and to speak the language of calm deliberation—a sacrifice of our glorious Union proposed by a patriot—not rather than freemen should be made slaves—not rather than the condition of even one human being should be made worse than it now is—but rather than one man shall remove from one spot of the earth to another without an improvement of his condition, without passing from slavery to freedom. Sir, after that announcement thus made, which I beg to say, sir, I did not seek—for the speech I have never read; the extract I found in one of the newspapers of the day—after that announcement, talk not of Southern violence, talk not of Southern egotism, talk not of our disposition to sacrifice to our peculiar notions and our peculiar relations the peace and happiness, the growing prosperity, and the mutual concord of this great Union. Now, sir, if that announcement goes abroad into the Southern county, attended by this wanton application of the Wilnot proviso, an irritating commentary upon that patriotic announcement, what can be expected? What but the deepest emotions of indignation in the bosoms of those born and brought up where slavery exists, and taking totally different views of the institution from those which are taken by the honorable gentleman who has placed himself upon this cool and deliberate, humane and philosophical, position.

Sir, we know, with regard to two or more of the Southern States, emphatic pledges have been given, through their legislatures, that *some* mode of resistance to this proviso will be adopted. Now, what is to be the result of the Nashville Convention which has been called for June next, should that body assemble and find matters in their present condition? If no bill shall have passed to do us justice by affording, as far as the law can afford it, the effectual restoration of fugitive slaves; if a bill shall have passed, or be likely to pass, with the insult of the Wilnot proviso causelessly and wantonly inserted in it, after the announcement made in the extract of the speech which I have just read—after the announcement made by the Senator from New York, that so far from there being an obligation to restore to us our fugitive slaves, the duty of hospitality requires that they should be received, kept, and retained from us; that the constitutional law which requires their restoration to us is contrary to the law of God, and not binding in conscience; and, still more, that those who visit our shores, coming under the protection of the American flag within our jurisdiction, and there, in violation of our laws, seduce our slaves from us, and carry them to the North, shall not be surrendered up as fugitives from justice, because the same high and overruling law which puts the Constitution down, and makes it a nullity, has converted what we call a crime into a high and meritorious act of duty—of this convention, meeting under such circumstances, what may be, what probably will be, the consequence? I say it not because I wish it—I do not wish it; the conviction has been forced upon my mind by evidence reluctantly received; and therefore I wish my friends around me to pay, for that reason, the more credit to what I say—if that convention shall meet under such circumstances, in my judgment the Union is from that day dissolved. I do not say that dissolution will follow instantly; I do not say but a connexion, an external Union may be maintained, and linger on for a few years longer: but the meeting of that convention will be to our institutions, in the language of Napoleon, "the beginning of the end;" it will be the initiative step in such a course of measures, North and South, as will result in convulsing us so far that the ills to which we fly cannot, in our judgment, exceed those we bear; and thus will put upon the people of the South the necessity, the painful, hard necessity, of a dissolution, a final separation. Now, sir, why do I take this view? In the first place, the meeting of the Nashville Convention is, upon its face, a step towards a separate and distinct organization of the Southern States. The very movement separates them for a time, in purposes and intent, from the great mass of the population of the country. They meet there for what purpose? To consider, to deliberate, to debate—what? What course of action shall by mutual agreement be taken by the States whom this convention will represent; what manner of resistance; what mode of redress? Now, sir, in all matters of this kind, in all revolutions, in all breakings up of the ties which bind us together, the first step is the great difficulty. It is so even in social and private life; it is so in the married state. The first wanton and public outrage on the part of one towards the other of the parties is easily followed by such steps as end in total and thorough estrangement. Well, then, suppose no measures are proposed which look to a separation of the Union—as I have no reason to suppose that any will be proposed looking to that as an object—I fully believe that that convention in Mississippi which terminated its

session in the call for this convention was influenced by high and patriotic motives, seeking to preserve and not to destroy the Union. If I wanted any thing to satisfy me of that, (besides other reasons which I have,) the very fact that the convention was presided over by the venerable and venerated Chief Justice Sharkey, a most learned jurist and patriotic gentleman, would be sufficient for me. But when we have ascertained what people design by any particular movement, we are far, very far, from having ascertained what they may accomplish by it. Now, suppose this meeting should resolve that, by a common concurrence of the States represented, laws should be passed, police regulations be adopted in those States, of the most irritating and offensive kind towards the Northern position of the Union: such a course will not appear surprising, if we bear in mind the fact that slaves are constantly taken from our ports by the vessels that visit them for the purpose of commerce; that, thus taken, they are withheld from us, and their seducers are neither disencouraged at home, nor restored to us for punishment; and that a flagrant wrong on one side naturally provokes to measures at once of protection and retaliation from the other. But, Mr. President, the moment these States, by mutual compact and agreement, have come to a resolution to adopt a particular course of measures upon this subject, they have left the platform of the Constitution; they are no longer upon it, because the Constitution expressly forbids a State to enter into any compact or agreement with another State without the consent of Congress. When this first step is taken, the process is easy, and need not be traced to a final dissolution of our present Union. And, therefore, in the event of the meeting of this convention, with the slavery question in the situation I have mentioned, I have, I repeat, gloomy apprehensions of what may be, and most probably will be, the result upon the destinies of our country. Force, Mr. President, cannot keep the States of this Union together—cannot preserve the constitutional Union. I distinctly admit what was said by the honorable Senator from Massachusetts, (Mr. WESTER,) that no State has a right to secede from this Union. I distinctly admit that the Constitution, looking to perpetuity, makes no provision, directly or indirectly, for the separation of its parts. But, in point of fact, from the very nature of our institutions, the States cannot be kept in union by force. The majority, or the most powerful portion, may conquer and reduce to subjection the other; but when this is done, the States are not in union, the constitutional connexion is not restored. It is but the spectacle of a conquered people submitting to superior power; and no ties of affection, no co-operation in a common government, no American union can reasonably be hoped between the conquerors and the conquered. Believe me, sir, if ever the unhappy hour should arrive when American blood is shed in a contest between the States, some desiring to secede, and the others endeavoring to compel them by force of arms to remain in the Union—whenever that hour comes, our connexion is immediately broken to all beneficial purposes for the happiness or prosperity of the country.

Now, Mr. President, with regard to my own State. Should this proviso be adopted, and should satisfaction not be given in the other particulars which I have mentioned, will North Carolina join in resisting, in any mode, the action of this Government? Will she unite in measures for secession, for revolution, or for retaliatory legislation? I am so far, sir, from undertaking to speak upon this subject for the South, which I wish to be understood now and always as disavowing, that I do not feel myself even empowered to speak what will be the judgment and conduct of my own State. As was well said the other day by my friend and colleague, (Mr. MANGUM,) in presenting some resolutions to the Senate, disunion is a question which we cannot discuss here as one for Senatorial action. We are sent here to represent the State under the Constitution, and to discharge ordinary legislative and executive duties, which presuppose the Constitution to be entire and in full force. We of course have no delegated authority to speak the views of North Carolina upon any such question as that which I have just stated. Last year the legislature of my State passed a series of resolutions, in which, after expressing in very strong and decided terms the sense felt by the people of that State of the wrong of the Wilmot proviso, and other kindred measures, they nevertheless adopted an extract from the Farewell Address of Washington, embodying the sentiment that we were not to look upon the Union as in any event to be abandoned. Making all proper modifications of that large and most comprehensive expression, "in any event," it could have no less interpretation than this, that none of the events alluded to by the preceding resolutions would furnish ground for the abandonment of the Union. Since that time this matter has been much discussed in North Carolina; primary meetings have been held; different resolutions have been passed by those meetings, some disencouraging and declining to be represented in the Nashville Convention, others approving the call, and resolving to send delegates; and one meeting, with a somewhat singular inconsistency, while protesting against a Government of unlimited powers, solemnly pledged itself to adhere to, abide by, and support whatever the Nashville Convention shall determine. I hope, sir, that North Carolina would not concur, on account of the passage of the Wilmot proviso, in any measures for the dissolution of the Union or resistance to the Government. My own opinion is, that it would furnish no sufficient ground for such a procedure. I say that here; I shall say it at home when the proper time arrives, if a time should ever arrive when it shall be necessary to say it. But this I say, also, that I shall feel—if such an event as the adoption of the proviso should happen—that a serious indignity has been offered to us; not, perhaps, designed—I will not charge any with a deliberate design to insult—but yet an indignity, because such must be the wanton adoption of an objectionable and useless measure, after distinct notice that it will be considered in that light. And rely upon it, sir, that whatever may be the result in regard to any external action of the people of the Southern States, if something satisfactory is not done respecting fugitive slaves, and if the application of this Wilmot proviso is insisted upon, there will be left in the hearts of our people a rankling sense of injustice and offence. They will have less of hope in the future operation of the Constitution. They will feel, to a certain extent, a painful conviction that the large majority of the inhabitants of the free States have not that sympathy with their feelings and regard for their rights, that justice and moderation in the exercise of known



powers, and that abstinence from the needless exercise of doubtful and questionable ones, which are so essential to keep the mind of the country united; and, unless our minds are united, the forced association of reluctant communities, who stay together not to obtain good from their connexion, but to avoid the evils of separation, does not deserve the name of Union.

Mr. President, I am sorry that I have occupied the Senate so long. I will endeavor to draw the few remaining remarks I have to make to a speedy close. I have submitted with entire frankness the views which I entertain. I believe, conscientiously believe, that there is in the Northern States of the Union a sincere attachment to the Constitution, a firm adherence to the compromises of the Constitution, and a just consideration for the rights and the feelings of their Southern brethren. And I have a strong hope, an abiding confidence, that these sentiments will, on every proper occasion, be manifested by the great body of inhabitants in the free States. If I thought otherwise, I should be without hope, and should be inclined to consider my birth an event to be deplored, as imposing upon me the necessity of witnessing the utter destruction of my country. But, sir, let a proper bill for the recapture of fugitive slaves be passed, let this Wilmot proviso be dropped, (and, if possible, sink into insignificance and oblivion,) and I am willing to deal with every question before the Senate in the utmost liberality of compromise. Yes, sir, I have no objections to compromise. The Union sprung out of compromise. The Union is supported by a legislative compromise—a compromise incorporated in the fundamental law, the Constitution. Springing out of compromise, this Union can only be preserved and made to promote the great and good ends designed by and hoped from it, by our carrying on the Government habitually in the spirit of compromise. In that view, sir, I am willing to withdraw all objection to the admission of California, with or without an alteration of her limits as settled by her constitution. And when I say that, Mr. President, permit me to say that I make a great sacrifice. Sir, I occupy the same position with regard to California now as I did at the last session. The honorable Senator from Mississippi, now in his seat, (Mr. Davis,) knows that I was with him upon a committee charged with the subject of admitting those Territories as States. I announced to him at once that I was totally and absolutely opposed to their admission in any form, and with any subdivision of territory. I have heard nothing to remove the objections I then entertained; but in the manner of the organization of the government there I find additional objections, strong in themselves, and giving additional force to those which I had before. And if I could believe that the views expressed by the Senator from New York (Mr. Seward) the other day upon this subject are the views entertained by the people of California, or by the gentlemen who are sent here to represent them, my objections would rise almost to an insurmountable repugnance, to a perpetual opposition; for that Senator has not hesitated to tell us in substance that we have no choice about admitting California; that she is a State, and a State she will continue, irrespective of any act of Congress; that she comes here and demands admission into this Union, and, if not admitted here, our authority will be cast aside, and she will be an independent republic upon the Pacific. But, sir, I cannot believe, and do not believe, that such an insolent dictation to us is designed by the people of California. And I personally know the two gentlemen whom she has selected as Senators, and am sure they would be the first to disown and renounce the position assumed by their patron upon this floor.

The honorable Senator from New York (Mr. Seward) seems to consider the admission of California as a matter beyond all price and all value, to be attained at every hazard and every sacrifice, and therefore—notwithstanding the opinion he has expressed with regard to slavery, though he considers it a high, hospitable duty to entertain the fugitive slaves from the South, and to keep them from their masters; though he has a holy horror of the extension of slavery into the Territories now free, and considers every obligation imposed by the Constitution in reference to slavery overborne and annulled by the supreme law of God—he tells us, that so all-important is this admission of California, under the circumstances, that he would have voted for her admission with an express recognition by her constitution of the right to carry slaves into her territory. An allusion to this subject seems to have a strange effect upon the Senator from New York. He is carried back at once to the last session, when certain measures were pending here for the purpose of organizing some temporary government for California and New Mexico; and alluding to the gentleman who is now the source of power and patronage in this Government, he thus expresses himself:

“May this republic never have a President commit a more serious or more dangerous usurpation of power than the act of the present eminent Chief Magistrate, in endeavoring to induce the legislative authorities to relieve him from the exercise of military power, by establishing civil institutions, regulated by law, in a distant province. Rome would have been standing this day if she had had such generals and such tribunes.”

Yes, sir, if Rome had been blessed with a Zachary Taylor for commander of her armies; if Rome had been blessed with a Zachary Taylor for a tribune, the Goths, the Vandals, and the Huns, Attila and all his hordes, would have poured upon the empire in vain—they would have been repelled, overcome upon the embattled plain, and driven back to their fastnesses in the North, and Rome would stand this day proud mistress of the world! Now, sir, whether the President of the United States can swallow such adulation as this, I will not undertake to decide; but such is my estimate of his intelligence and his merit, of his modesty—a just modesty, which usually accompanies true merit—that I believe he has no powers of deglutition sufficient to get it down.

I have said, Mr. President, that I should make a great sacrifice in my vote for the admission of California; yet I will make the sacrifice, not grudgingly, but cheerfully; and, as said by the Senator from Michigan (Mr. Cass,) the other day, if asked “what would I do to restore harmony to the country, and make this still a united and happy people,” I would answer like him, “I scarcely know what I would not do to accomplish such an end.”

Mr. President, I feel the importance of this great subject, and my utter want of powers to treat it as it deserves. I wish to excite or to irritate the angry feelings of no section of this country; I am con-

scious, in my own bosom of no sentiment towards any portion of my countrymen, except one of respect and cordial attachment. But I may be permitted to except from this general declaration those mischievous associations in the northern part of the United States, which, to our injury, and to the great and permanent injury of the unfortunate slaves among us, have been, with an unholy pertinacity, agitating the subject of this domestic institution of ours for the last fifteen years. Towards them, even, I trust I have no feeling of hatred. For every portion of the American people—I care not whether in the East or West, the North or South—I have the heart and hand of a brother. There is no gentleman upon this floor, among my immediate associates around me, no gentleman upon the other side of the chamber, for whom I have not always manifested a proper personal consideration and kindness. But I wish to make our Northern friends aware of the danger to which we are exposed. My own views have never been extreme—my position has ever been moderate; and I trust some credit will be given me when I declare my deliberate judgment, that consequences the most serious, even the most calamitous, may follow a particular disposition of this subject by the present Congress. If it should be believed throughout the Southern country that sentiments which we have heard here uttered are the sentiments of the whole body of the North, every desire to remain together would sink in Southern hearts. We would be together, then, not from love or affection, not from the hope of happiness or improvement; and if we would remain united at all, it would be solely from dread of the greater and darker calamities that might follow our separation. If this subject is met in a proper spirit, it can be easily settled and adjusted. So far as I am concerned, I am willing to meet upon any reasonable ground. I am willing to yield much that I wish, to do much for which I have a strong and serious repugnance.

I call upon every conservative gentleman in this body, every one from a free State who desires to perpetuate the institutions of his country in their true spirit and character, who wishes not to convert our Union into an association of discordant and discontented parts, held together by dread or force, but to preserve us one people, united in heart and affection—I call upon him to meet us upon the ground of kindness, compromise, and conciliation: I say to him, drop this odious proviso—a measure powerful for evil and impotent for good; let it not have an immortality of mischief; give us security for the restoration of our fugitive slaves; admit California as you wish, and if you choose to abolish in the District of Columbia this foreign slave trade—this conversion of the seat of Government into a general mart for the slave dealers of the surrounding States—I say abolish it. My colleague (Mr. MANGUM) and myself both stand ready to vote for it. Permit me, sir, to say to our Northern friends, that if they suppose Southern gentlemen to be wedded to any of the adventitious evils or abuses of slavery—to be unwilling to correct excesses, or disposed to support cruelty or to patronize inhumanity—they do us great injustice. Upon the rights of property we stand; these we consider sacred; and from our support of them we cannot be moved. But, saving these, make what regulations of police the occasion may require, and I will not only submit, but will give to them my hearty concurrence and approbation.

Mr. President, it cannot be—I will not believe it—nothing but demonstration, nothing but the accomplished fact shall satisfy me—that we have so degenerated from our sires of the revolution as not to be able harmoniously to adjust the questions before us. It cannot be that the true spirit of concession and compromise is fled; that idealisms have taken the place of constitutional obligations and kindly feelings; that fanaticism has dethroned reason, and the Union, the work of our noble fathers, just as it has well commenced its onward progress to a future of real glory and power, is to be broken to pieces by the rude hands of agitation, by cabals abroad or intrigues at home, contrary to the general sentiment and earnest wish of the great mass of the people. Sir, we have had offerings made here for the preservation of this Union from every quarter of this chamber. Often and nobly have they been made by the distinguished Senator from Michigan, (Mr. CASS;) firm, steady, constant, and true in this cause has my friend from New York, on the other side of the chamber, (Mr. DICKINSON,) at all times been. The distinguished Senator from Kentucky, (Mr. CLAY,) in his late earnest and patriotic efforts, has added another laurel to the immortal chaplet that binds his brow; and but a few days since, the great expounder of the Constitution, (Mr. WEBSTER)—that man of mighty mental and moral power—closed the list of great names engaged in this holy cause in a speech so clear in expression, so comprehensive in patriotism, so noble in self-devotion, that could we doubt the success of these united efforts for harmony and conciliation, we must needs believe that, for some inexpressible crime, God has visited us with judicial blindness, preparatory to the outpouring of his righteous indignation upon our country. Sir, I will not believe this—I do not, I will not despair of a cause so good. On the contrary, I trust that we shall yet come together on a common basis of harmonious co-operation, and find ourselves able to adopt, as the expression not only of a patriotic wish, but of an assured and confident hope, the sentiment made immortal by the great Senator from Massachusetts, “**LIBERTY AND UNION, NOW AND FOREVER, ONE AND INSEPARABLE.**”